Department of Justice

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Eastern District of California

FOR IMMEDIATE RELEASE
Friday, October 10, 2008
www.usdoj.gov/usao/cae
Docket #: 08-cr-474-EJG

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TWO INDICTED IN "CASH BACK" MORTGAGE FRAUD SCHEME

SACRAMENTO, Calif.—United States Attorney McGregor W. Scott announced today that a federal grand jury returned an indictment yesterday charging DEREK DAVIS aka Terry McCullough, 62, of Sacramento, and DINO ROSETTI, 39, of Roseville, with mail fraud and making false statements in loan documents. DAVIS was separately charged with attempting to cause a financial institution to fail to file a currency transaction report, and ROSETTI was separately charged with engaging in a monetary transaction in criminally derived property in an amount greater than $10,000.

ROSETTI was arrested this morning by federal agents. DAVIS was previously arrested on a criminal complaint and is in custody. Both defendants are scheduled to be arraigned on the indictment at 2:00 p.m. before United States Magistrate Judge Kimberly J. Mueller in Sacramento.

This case is the product of an extensive investigation conducted by the Federal Bureau of Investigation, the Internal Revenue Service-Criminal Investigation, the California Department of Real Estate, and the El Dorado County District Attorney's Office.

According to Assistant United States Attorney Courtney J. Linn, who is prosecuting the case, the indictment charges that from June 2005 through December 2006, the defendants engaged in a scheme to defraud mortgage lenders in connection with residential real property purchases in Sacramento, El Dorado, and Placer Counties. DAVIS recruited various individuals, including straw and nominal purchasers, to purchase 16 real properties. DAVIS orchestrated the transactions and ROSETTI, through his company 1st Option Mortgage, acted as mortgage broker.

The indictment charges that the transactions involved fraudulent or false representations to obtain 100% mortgage financing, including misstatements about the purchasers' monthly income, intent to occupy the property, and existing liabilities. In addition, the indictment charges that in each transaction the purchase price was above the true market price of the property. An amount approximately equal to the difference between the purchase price and the true market price was then diverted as "cash back" at the close of each escrow to the bank account of a Nevada Corporation called Calorneva Land Company. These credits ranged from approximately $42,000 to nearly $138,000. As part of the scheme, DAVIS caused these credits to be concealed from the mortgage lenders. The indictment charges that DAVIS in fact exercised control over the Calorneva Land Company bank account and used the fraudulently-obtained funds for various purposes, including extensive cash withdrawals.

"Over the course of numerous investigations we have seen how fraud-for-profit mortgage schemes took root in our Sacramento-area housing market, particularly in this 2005 to 2006 time frame," said U.S. Attorney McGregor Scott. "There were undoubtedly many catalysts to the lending crisis that now grips our national economy. Mortgage fraud was one of them. As this investigation illustrates, the Department of Justice is committed to prosecuting those responsible for mortgage fraud, and to working with federal, state, and county law enforcement agencies to investigate and prosecute those involved in these activities."

The maximum penalty for mail fraud is 30 years in prison if the fraud affects a financial institution, and a fine of up to $250,000, or twice the value of the gain or loss, whichever is greater . The maximum penalty for making false statements in loan applications is 30 years in prison and a fine of $1,000,000. The maximum penalty for engaging in monetary transactions involving more than $10,000 in crime proceeds is 10 years in prison and a fine of $250,000, and the maximum penalty for money laundering is 20 years in prison and a fine of up to $500,000 or twice the value of the money laundered, which ever is greater. The maximum penalty for causing or attempting to cause a financial institution to fail to file a currency transaction report is ten years in prison and a fine of $500,000. The actual sentence, however, will be determined at the discretion of the court after consideration of the Federal Sentencing Guidelines, which take into account a number of variables and any applicable statutory sentencing factors.

The charges are only allegations and the defendants are presumed innocent until and unless proven guilty beyond a reasonable doubt

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